

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Docket No. 7970

Petition of Vermont Gas Systems, Inc. for)
a certificate of public good, pursuant to)
30 V.S.A. § 248, authorizing the construction)
of approximately 43 miles of new natural gas)
transmission pipeline in Chittenden and Addison)
Counties, approximately 5 miles of new)
distribution mainlines in Addison County,)
together with three new gate stations in Williston,)
New Haven and Middlebury, Vermont)

**CONSERVATION LAW FOUNDATION’S RESPONSE TO FILINGS REGARDING
VERMONT GAS SYSTEMS’ UPDATE OF ESTIMATED CAPITAL COSTS**

Conservation Law Foundation (CLF) submits these comments in response to the Vermont Public Service Board (Board) Order of January 2, 2015, regarding the Vermont Gas Systems (VGS) submission informing the Board of an additional increase in the estimated capital costs for Phase 1 of the Addison Natural Gas Project (Project).

As explained in CLF’s filings in Docket 8330 including the Petition for Declaratory Ruling and Injunctive Relief and accompanying Memorandum of Law filed with the Board by CLF on July 14, 2014, the significant cost increase identified by VGS in its July 2, 2014, letter is a substantial change to the Project and pursuant to Vermont law, PSB precedent and Board Rule 5.408 an amendment to the certificate of public good is required to authorize construction of the Project. The additional 27 percent cost increase identified by VGS on December 19, 2014, provides additional reasons to require VGS to seek an amended CPG.

CLF submits the attached Petition and Memorandum from Docket 8330 and incorporates them as comments on VGS's new updated capital cost estimates.

The new updated estimated capital costs for this project again exceeds the "increase by 20 percent" that is referenced in Board Rule 5.409.

Because the cost increase is again so significant, it has the potential for a significant impact with respect to one or more of the Section 248 criteria. An amended CPG is required to authorize the project.

As requested by CLF in Docket 8330, the Board should require VGS to seek an amended CPG and determine that additional construction is not authorized unless and until an amended CPG is awarded.


In the alternative, CLF supports a request for a remand from the Vermont Supreme Court and encourages the Board to fully evaluate the impact of the cost increase and its effect on all the criteria on which approval was previously granted.

Regarding the Motion for Relief Pursuant to Rule 60(b) filed by the Vermont Public Service Department (PSD) on December 22, 2014, CLF urges the Board to dismiss this request for lack of jurisdiction. *Brady v. CU York Ins. Co.*, No. 2005-323, 2006 WL 5866264, at *4 (Vt. Mar. 2006) (once appeal is filed, trial court has no authority to rule on 60(b) motion absent remand) quoting *Kotz v. Kotz*, 134 Vt. 36, 39, 349 A.2d 882, 885 (1975) ("While a cause is pending in this Court, the trial courts have no power to rule on V.R.C.P. 60(b) motions in the absence of a remand for that purpose."). As this proceeding is on appeal before the Vermont Supreme Court, the Board cannot have jurisdiction to grant the requested relief while the matter is before the Vermont Supreme Court.

CLF opposes the schedule for hearings suggested by VGS. Absent a remand, the Board cannot undertake hearings on or consider the revised costs as suggested by VGS absent a remand from the Vermont Supreme Court.

Dated at Montpelier, Vermont, this 12th day of January 2015.

CONSERVATION LAW FOUNDATION

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